

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for up to 1 hour, with the first 30 minutes under the control of the majority leader or his designee and the remaining 30 minutes under the control of the Democratic leader or his designee.

The Senator from Alabama.

IMMIGRATION REFORM

Mr. SESSIONS. Mr. President, the Senate Judiciary Committee has voted out a historic and monumental immigration bill. The work was intense and fast, and we spent less than, perhaps, half a day dealing with the entire area of the bill that is referred to as guest workers or what to do with those who are here today illegally—perhaps 11 million to 20 million individuals.

I have reached a conclusion, having been in law enforcement for the most part of my professional career, that the enforcement provisions are not going to be adequate—although there are some good ones there, some steps forward—and our approach to those who are here and those who wish to come here in the future has been poorly thought out and unprincipled.

I strongly believe that America has a tremendous opportunity to fix a broken immigration system. The system as it operates today makes a mockery of law, and we all know that. It rewards bad behavior. It places bureaucratic hurdles and delays in front of those who want to do the right thing in coming here.

The list of the ways the current system does not work, frankly, is almost endless. We have had hearings and discussions, and you have read in the newspapers so many of the things that are disturbing about why our system does not work. Our failure to develop a lawful system has had a number of perverse consequences. But one little-noted consequence is that many Americans, even those in this Senate, have come to believe that it cannot be fixed, that it is hopeless, that we cannot get control of our borders, that it is just a natural thing we should accept, that we go through the motions of doing something about it, but it really will never be fixed.

But the good news is that is not true. The failure of our current system is the result of identifiable defects, defects that can be fixed. It is not impossible. Fixing these deficiencies is not all that difficult. Although it will cost real money, it is affordable. So what we really need is the will to do it, the belief and the will and the determination to go forward and make this system work.

T.J. Bonner, who heads the National Border Control Council and who has repeatedly expressed the frustrations of our Border Patrol agents—he represents them—told us, at our Judiciary Committee, how to make the system work. He said: First, control the borders. Second: Workplace enforcement needs to be effectually carried out; that is, to make sure people who are not legal do not get jobs because the jobs are the magnets. A third and connected step is to make our entry and exit system biometric and easier to use. That is part of the concept that would be necessary to move us to an effective legal system.

Such actions, in my view, based on my study and the hearings I have attended, will allow us to quickly reach the magic “tipping point.” That is the point where those who want to come to this country will receive a clear message. And that message is this: It makes far more sense to enter our country legally rather than illegally.

Now, at this time, the opposite is true. Those who desire to enter America would rather pay a fee to some transporter, some “coyote,” to cross illegally rather than enter lawfully. The situation is so bad that while we apprehended 1.1 million last year entering our country illegally—think of that, 1.1 million—the number who have arrived successfully has surged to almost 12 million, according to the best estimates. Many say more. How bad is that? That is not good. This is not a policy which we can take pride in or have any confidence in, that we have almost as many people illegally as legally coming.

So what do we do to fix it? You say: SESSIONS, what are you going to do about it? What do you propose? There are some steps we can do. Unfortunately, because the system has been broken for so long, we are going to have to work very hard at first to get to that tipping point, to tip from illegality to legality.

But you see what happens when that occurs, when you reach that tipping point? Then the stress on the agents, who are out arresting thousands every night, is so much less because they have fewer to apprehend. You have fewer in our deportation centers. You have much less of a problem for those who are deported—other than Mexicans, who cannot readily be deported to their country—because fewer are coming because they know if they come they are likely to be apprehended and they will be immediately sent back to whatever country they came from.

It begins to work in a way that a lot of people do not think is possible, but it is absolutely possible, and that is, once we make clear you are not going to successfully be able to enter our country illegally, that you must wait in line to come legally, we will have far fewer people come here. Right now the word is out that we are open for anyone who desires to come, even if they don't desire to come legally. That is what is causing so much problem.

One of the things we learned in the 1986 amnesty was not to give amnesty again. You want to do the right thing, and we are going to do the right thing about the people who have come here illegally. We need to spend some time on it. We need to care about every single one of them. They are human beings with dreams and hopes, creatures of our Heavenly Father. Each one of them is entitled to respect, but they are not entitled to the same benefits a lawful entrant into our country has. Who would suggest that? I don't think that is a principled approach we can defend.

We learned in 1986 that we should not give amnesty. It failed. No serious commentator believes the amnesty of 1986 worked. It was widely held to encourage illegal entry. There was a commission appointed by the Congress, a bipartisan commission, 6 years after 1986 to review what happened when the legislation passed that created amnesty at that time. They said it failed. It should not be done again.

By any standard of the definition of the word “amnesty,” the bill that came out of committee is that. That is a loaded word. I don't want to be a demagogue with the word “amnesty.” But if amnesty has any meaning, it is that people who came illegally are given an opportunity to receive every single benefit, including citizenship, as a result of their illegal act. That is how we have always meant it. That is what was done in 1986. That is what was determined to be a failure.

Secondly, we must deal with and eliminate, as T. J. Bonner said, the magnet of jobs for illegals. It will not be hard to stop the hiring of illegals by requiring biometric identifiers of foreign workers. It will be easy. Most businesses will comply with what they understand to be the plain law. If they are told they should require identification and it should be checked through the computer system that is being set up and will be set up to determine whether this is a lawful applicant, they will do so. It will not be easy to prosecute those cases. We have learned, however, that in 2004, only three cases of fines were assessed against an employer for bringing people into the country or hiring people who were here illegally. So it has never been enforced. It is a mockery of the law. You have it on the books, but nobody has ever enforced it.

Businesses will comply. We will not have to prosecute all of them. As soon as they realize this is not the policy of the United States anymore, that the policy of the United States is you should check your workers before you hire them and make sure they are here legally, they will do so. All of a sudden, this magnet can be eliminated. Again, therefore, if you want to come to the United States to work lawfully, you are tipped into the idea of waiting in line, take your time, come and have your background check done to make sure you don't have terrorist connections and don't have a criminal record,

those kinds of things, and then you can come in.

Border enforcement is not easy. We have 1,900 miles on the border. People say we should not have a fence; it is something deeply wrong with that. I don't find anything wrong with that. I always heard the slogan "good fences make good neighbors." It certainly has worked in San Diego. But in the most busy areas where illegal entry is occurring, that is a perfectly normal and natural thing. If we don't do that, it is an indication that we lack the will to see the matter through.

The House has a bill that deals with this issue. It proposes up to 700 miles of fencing in the worst areas. It has worked in the San Diego area. It can work here. So it is a test. Are we committed to the enforcement question?

The committee bill did deal with some important steps on enforcement, however. It had some important steps. I don't want to diminish that. I have used a metaphor to say, unfortunately, that it is like making an 8-foot leap across a 10-foot ravine. We are almost there, but we are not there. If we do a few more things, including barriers, including biometrics, including workplace enforcement and detention, not having anymore catch-and-release programs, those kinds of things, we could get there more quickly and more easily than most people think. We have made progress, but we are not there yet.

I have discovered, as a former attorney general and prosecutor, U.S. attorney, from my local police officers in Alabama that they are not welcomed to even voluntarily contribute their abilities in immigration enforcement. For example, there is a clear message told to local law enforcement—and I meet with groups of law enforcement officers whenever I am in the State and enjoy that. I ask them how their drug laws are going, what are they seeing on the streets, what problems do they have. And I usually ask them about immigration. The standard answer is, they have been told by the immigration enforcement officers that unless they have 15 people illegally they have apprehended, don't bother to call. They won't come and pick them up. They are not interested. What does that say about our intention to have a lawful system as opposed to an unlawful one?

I saw the front page of the Washington Times a few days ago. It had an article about an officer in the Midwest or the West who apprehended 15 illegal aliens. He called the immigration people and they said: Don't bother. Don't call us.

This has been going on for years. It is the standard policy out there. So this indicates to me we are not serious about having a lawful system.

It is absolutely possible for us to reverse this trend, to allow large numbers of people to come to our country to work, people who we know are not connected to terrorism or are not criminal elements, drug gangs and organizations of that kind. We absolutely

can do that. But I am afraid the legislation we have moved forward does not do so. We are going to have some discussion about the majority leader's bill, the Frist bill. It is more focused on the enforcement question. It does not attempt to settle the huge, difficult human issue of how to handle in a humane and lawful way those who are already here unlawfully. That is a big deal, and we will have to spend some time on that. But I don't understand the purpose of it. We will spend a day or so on that and then apparently go to the committee bill.

It came out of committee with a pretty large vote, six "no" votes on the committee. The Judiciary Committee has produced their legislation. It is on the floor now, and it will be the main part of the debate as we go forward. The only thing about which I will express concern to my colleagues is that we haven't read it yet. I see the Presiding Officer, such an extraordinarily valuable member of our committee who cares about this issue deeply. We haven't even seen it printed yet. We passed amendments, and we agreed to amendments on the floor. We passed the agriculture jobs bill that was up here a year or so ago that got blocked. We passed it in a 5-minute discussion. I think it was maybe 50 or 100 pages. This bill is over 300 pages. We substituted the Kennedy-McCain bill for the chairman's mark and passed that. Who has read that?

Then they said: Well, it wasn't quite the same as everything you have heard about our bill. We have made improvements on it. What improvements? What does it say?

I urge my colleagues to not announce too quickly that they are in support of the legislation that came out of our committee because they don't know what is in it yet. I don't know what is in it, and I am on the committee.

We are dealing with one of the most momentous challenges of our time. We need to do it in the right way. We can do it in the right way. What I believe we should do is follow the lead of the House of Representatives. People say that is a harsh bill. It is not a harsh bill. It is a bill designed to make the legal system work. What is harsh about that? Unless you believe lawlessness is the appropriate way to handle business in America, unless you don't respect the rule of law. It is not harsh to create a legal system. They have concluded that the proper response to the crisis we face, with due respect to the concerns of the American people, is to, first, demonstrate that we can create an immigration system that actually works. That is what the House decided to do. That is what they focused on, and that is what they passed. They did not attempt, with a few hours debate, to deal with the colossal issue of human concerns of those who are here and to develop an architecture for who we want to allow to come in in the future and under what conditions.

That is what we should do. That is what most of our hearings in the com-

mittee have been focused on. Then we will have some credibility with the American people.

Let me share a couple of additional thoughts about matters I believe are important. The Judiciary bill—I don't want to call it Chairman SPECTER's mark because it was so altered and changed. It had quite a bit of difference. But the bill that came out of committee did a number of different things. One, it would immediately legalize the 12 to, some say, 20 million people who are here illegally. It would give them a green card in a relatively short period. It would then put them on an automatic path to citizenship. Once they become a citizen, they are able to bring in family members and even brothers and sisters, mothers and fathers. It would double the number of legal visas, I think, to 400,000. Each one of those would not be as though you have a visa to come in. These visas are not just to come in to work for 6 months or a year and go back to your home country. This 400,000 will allow you to stay up to 6 years and then allow you, at the end of 4 years, to apply for a green card. And once you get that permanent green card, you can apply for citizenship. So it will be about another 400,000.

We think, conservatively speaking, this bill would add 30 million people to our Nation in the next 10 years. We ought to spend some time talking about that. That is a big deal. That is a 10-percent increase in our population, and we ought to be thinking about what is in it. We spent very little time and we have spent very little national discussion in which the American people have had an opportunity to listen on this issue. It is hugely important. We want to do the right thing about it.

Let me share this: The enforcement mechanisms we passed in committee—many of which are good, some of which failed that were needed—are only a promise.

This is why the American people have a right to be cynical, they have a right to be nervous, they have a right to watch this Congress like a hawk because that is what happened in 1986. Once you pass the guest worker part of the bill—which is what it is being called, and I am not sure that is a very good description of it—that becomes law; the people become legalized; they put in for citizenship, and we double the number of people coming, et cetera, and that becomes our law right now.

What about the enforcement? We authorized UAV, the virtual fence. Virtual reality is all that is. That UAV is to see if somebody is out there, but that is of very little value if you don't have somebody go out and pick them up. Anyway, we increase the bed spaces and increase some Border Patrol officers by authorization. All the Judiciary Committee bill can do is authorize those actions to be made. They have no ability whatsoever to fund them and to make sure they get carried out.

What we learned after 1986 is that Congress hasn't funded the things necessary to make the border secure, and the Presidents—every one of them since that time—seem to have little interest in making sure it gets enforced. They don't come before Congress and say we have a problem at the border; we need more money, more agents, more detention space, and more barriers. They let it go. So this is a dangerous thing. I am not going to vote for any bill that is a "let me see one hand and not the other." In other words, we are going to have one vote that will be a permanent decision about how to deal with those who are here illegally. But we will not be able to have any guarantee that the enforcement system is going to be made workable. That is why the House believes they should complete the enforcement mechanisms first, which is a good principle that we should be concerned about.

The stress on our system is going to be incredible. Some in the immigration system say, when they think what this will mean, they cannot imagine how this will ever work. They have a huge backlog on applications to come into the country. Our immigration service is expected to make some background checks to make sure we are not allowing criminals and terrorists to come into the country. If we more than double the number that are allowed to apply and enter, then their workload is going to be incredibly heavy. It is not working now. We can do better.

Finally, a lot of people have been unhappy with President Bush. They say he has been too much for amnesty. They say he is not serious about the border, and they have complained about that and so have I. I felt that he has not been sufficiently concerned about creating a legal system that works. But I have to tell you, the bill that came out of committee is way past that. Please know that, Senators. I heard Scott McClellan on the radio today, from the press conference he gave yesterday, and he stated the principles of the President. One of them is that those who come here illegally are not put on an automatic path to citizenship. That is what the President defines as amnesty. That is what he says he is not for.

But that is what this bill does. The bill puts the people who came here unlawfully on an automatic path to citizenship. If that is not amnesty, what is? The President does not support what is here. It is beyond what he wants to do. He has a very generous idea about immigration. He wants to do the right thing. All of us do, but we cannot defend the principle of granting amnesty because we know what happened in 1986. It did not work. The independent commissions have said that.

I will conclude by urging my colleagues to recognize how important this issue is to get right, how important it is that we do the right thing, so that 10 years from now, 20 years from

now, we can be proud of what we did. And we can get there; we absolutely can. But this bill is not the vehicle to do it. We should not pass it in its present form. I say that with the caveat that nobody has seen the bill we will have on the floor. It hasn't even been printed yet. That is a pretty sad case, if you want to know the truth. It was so complex and rushed through our committee in such a hasty way.

Mr. President, I thank the Chair and my colleagues for giving me a chance to share these thoughts. I urge each and every one of them to spend some time on this issue. Let's study this legislation and let's don't be stampeded by politics or protests or that kind of thing. Let's try to do the right thing and make sure that whatever we do is something we can be proud of and our children can be proud of.

The PRESIDING OFFICER (Mr. VITTER). Does the Senator from Alabama yield back the majority's time?

Mr. SESSIONS. How much time remains?

The PRESIDING OFFICER. There is 1 minute 40 seconds.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as I understand it, we have a half hour in morning business for the Democrats; is that correct?

The PRESIDING OFFICER. That is correct, and 29 minutes 15 seconds remain.

Mr. KENNEDY. I ask the Chair to notify me after I have used 12 minutes.

The PRESIDING OFFICER. The Chair will do so.

IMMIGRATION REFORM

Mr. KENNEDY. Mr. President, I always enjoy listening to my friend from Alabama. He has been very much involved and engaged in the discussion and debate on this issue in our Judiciary Committee. But I caution those watching this debate to examine his comments, where he said: "Any individuals that came here illegally, this bill puts them automatically on a path for citizenship." That statement is categorically wrong. It does not. I will explain about the provisions of the legislation. I would not support that proposal. The members of the Judiciary Committee that supported the underlying legislation, the McCain-Kennedy legislation, don't support that proposal.

We gather here today to begin debate on our effort to correct a great historic wrong.

For decades, this country has turned a blind eye to the plight of the stranger in our midst, and looked away in indifference as undocumented immigrants have been exploited at the workplace and have been forced with their families to live in constant fear of detection and deportation.

We have ignored the tough conditions endured by the undocumented, and the harmful ripple effects undocumented

employment has on some U.S. workers. For decades Congress has failed to take sensible steps to end undocumented immigration, and some of our policy choices have even contributed to the current crisis.

We first confronted this problem directly in 1952, passing a law known in the parlance of the time as the "Wet-back" bill, which made it a crime to harbor or abet undocumented immigrants. But at the same time, over the vigorous objections of President Truman, Congress carved out the Texas Proviso—so called because it was drafted by agricultural producers from that State—which made it legal to employ undocumented immigrants. This decision protected the "economic pull factors" which have sustained illegal migration since that time.

In 1961 the Edward R. Murrow documentary *Harvest of Shame* directed the Nation's attention to the miserable conditions under which migrant farm workers toiled to bring cheap fruit and vegetables to our table. Congress responded by terminating the deeply flawed Bracero guest-worker program, and strict limits were imposed for the first time on labor migration from Mexico. I was part of that effort in the Senate to end that unacceptable and outrageously exploitive program. These changes to our immigration policy were well-intentioned, but with hindsight their result was predictable: by ending legal migration, but allowing employers to bid for immigrant labor, Congress all but guaranteed a generation of undocumented immigrants would emerge.

Since that time, economic disparity between the U.S. and its neighbors increased, globalization made travel in and out of the U.S. easier, and two whole generations of foreign workers and U.S. employers came of age in an economic system organized around illegal migration.

In truth, Congress has done little since then to confront this problem. In 1986 we passed the Immigration Reform and Control Act, but IRCA's employer sanctions provisions have never been enforced. Rather than confront the structural causes of undocumented immigration, Congress has repeatedly attacked the symptoms of this disease: building more fences and placing more agents at the U.S.-Mexican border, and imposing more restrictions on immigrants' legal rights. These blunt enforcement tools have not quenched employers' thirst for immigrant workers, and they have not given families the tools to be reunited with their loved ones. Instead, enforcement-only approaches have driven immigrants farther into the desert and deeper underground.

For decades, we tolerated undocumented immigration because it seemed like a win-win exchange: employers and consumers were given access to cheap labor and low-cost goods and services; but Congress was not required to make politically difficult decisions